IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 1776 OF 2007

Municipal Corporation of Gr.Mumbai.... Petitioner

versus

Abdul Karim Alijan Solanki..... Respondent.

Mr. A.Y.Sakhare i/b r.A.Malandkar & S.J.Ujjainwala for the petitioner.
Shri N.P.Karnik for Respondent no.1.

CORAM; A.P. DESHPANDE, J.
DATED; 18TH JUNE, 2007

P.C.;

1. The petitioner employer takes an exception to award part-I passed by the labour court in IDA Reference No. 209/98. The labour court, for reaching the conclusion that the enquiry conducted was not fair and legal, has criticised the conduct of the enquiry officer who has put many questions to the witnesses. The labour court has found that the enquiry officer was prejudiced against the delinquent employee and as he had bias, the whole enquiry shall stand vitiated.

2. Perusal of the award reveals that the enquiry officer has put vary many questions to the witnesses which are in the nature of cross examination. It is not in dispute that the enquiry officer can always seek clarification. However, cross examination needs

to be depricated. The labour court after refering to various questions put by the enquiry officer to the witnesses, has concluded that the enquiry officer was biased and prejudiced and thus has held that the enquiry as conducted was not fair and legal. It is obvious that it would be open for the petitioner to lead evidence before the labour court to substantiate the misconduct. As the petitioner is not likely to suffer any prejudice I do not propose to interfere with the impugned award as in my view a possible view of the matter has been taken by the labour court which require no interference at the hands of this court. Hence writ petition is summarily dismissed.

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